



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL ADMINISTRATOR  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 19 2019

**MEMORANDUM**

SUBJECT: Recusal Statement, Revision #2

FROM: Cathy Stepp  
Regional Administrator

TO: Andrew R. Wheeler  
Acting Administrator

I previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and the Region's ethics team and have been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed. *This revision supersedes my previous recusal statement. It adds: three actions under the 1997 & 2008 ozone NAAQS.*

***FINANCIAL CONFLICTS OF INTEREST***

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I am recused from participating in any particular matter involving the following entities:

ENTITY	BUSINESS
Magnum Truck and Equipment, Sturtevant, WI	Used truck and trailer dealer
HMS Properties of Wheatland, LLC, Sturtevant, WI	Real estate holding company
PS Properties of Dover, LLC, Sturtevant, WI	Real estate holding company
P&C Investors, Sturtevant, WI	Real estate holding company

## *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employer, the Wisconsin Department of Natural Resources (WDNR). The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer do not apply to me. The definition of “former employer” in the Executive Order excludes state government.<sup>1</sup> Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers.

## *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with my former employer, which is a state government. However, on January 3, 2018, EPA’s Designated Agency Ethics Official issued an impartiality determination that authorizes me to participate in specific party matters that involve the State of Wisconsin, but not on the very same specific party matters I worked on personally and substantially while employed with the WDNR. Attached is a list of matters I am recused from given my role at WDNR. In addition, I am recusing myself for one year from my date of separation from WDNR from certain additional matters currently pending in Region 5, which are identified in the attached list. This one-year recusal ends on August 31, 2018.

## *SCREENING ARRANGEMENT*

To ensure that I do not participate in matters relating to any of the entities listed above, I will instruct the Acting Deputy Regional Administrator (DRA), Region 5, and Regional Administrator assistants (identified in the cc: list below) to assist in screening EPA matters directed to my attention that involve those entities. To help ensure that I do not inadvertently participate in matters from which I am recused, I am directing the Acting DRA to seek the assistance of the Region 5 Ethics Team and/or OGC/Ethics if he is ever uncertain whether I may participate in a matter. All inquiries and comments involving the entities on my recusal list should be directed to the Acting DRA without my knowledge or involvement until after my recusal period ends.

If the Acting DRA determines, with input from Region 5 Ethics and/or OGC/Ethics as appropriate, that a particular matter will directly involve any of the entities on my “specific party” recusal list, she will take action or assign it to another, without my knowledge or involvement. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics, and Ann Coyle, Regional Ethics Attorney.

## *UPDATE AS NECESSARY*

In consultation with OGC/Ethics or the Region’s ethics team, I will revise and update my recusal statement whenever warranted by changed circumstances, including a determination that

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<sup>1</sup> See Exec. Order 13770, Section 2(j), which provides: “‘former employer’ does not include ... State or local government.”

I worked personally and substantially on a particular matter, not yet identified, while at WDNR, changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you, OGC/Ethics, and my principal subordinates.

cc: Justina Fugh, Senior Counsel for Ethics  
Cheryl Newton, Acting Deputy Regional Administrator, Region 5  
Kurt Thiede, Chief of Staff, Region 5  
Leverett Nelson, Regional Counsel, Region 5  
Ann Coyle, Regional Ethics Counsel, Region 5  
Felicia Williams, Executive Assistant to the Regional Administrator  
Marjorie Marshall, Secretary  
Sheila Robinson, SEEP

**Cathy Stepp–Wisconsin Department of Natural Resources**

<b>Permanent Recusal</b>	
<b>Company/Matter</b>	<b>Statute(s)</b>
1997 & 2008 ozone NAAQS, proposed split of the Sheboygan nonattainment area into two discrete nonattainment areas.	CAA
2008 ozone NAAQS: Final approval of certain moderate SIP elements for the Wisconsin portion of the Chicago, IL-IN-WI area.	CAA
2008 ozone NAAQS: Proposed disapproval of Wisconsin's request to re-designate the Wisconsin portion of the Chicago, IL-IN-WI area.	CAA
Ashley Furniture	CWA
Kewaunee County SDWA petition	SDWA
Kohler Golf Course	CWA
Large dairy CAFOs general permit	CWA
Legal Authority Review	CWA NPDES
Madison-Kipp Corp (Madison)	TSCA PCBs
Meteor Timber	CWA
Mid-America Steel Drum a/k/a Greif a/k/a CLCM (Milwaukee)	Various
Milwaukee Metropolitan Sewerage District	CWA NPDES
NPDES withdrawal petition	CWA NPDES
Pagels family enterprises <sup>2</sup> <ul style="list-style-type: none"> <li>• Ponderosa Dairy (Kewaunee)</li> <li>• Dairy Dreams</li> </ul>	All
Variance for phosphorus	CWA
WDNR's comments on Tribal "Treatment as State" Reinterpretation Rule <ul style="list-style-type: none"> <li>• Forest County Potawatomi, Treatment as a State</li> <li>• Lac Courte Oreilles, Treatment as a State</li> </ul>	CWA & CAA
Webers (Oregon, WI), health effects of exposure to biological waste holding tanks	Various
WE Energies	CWA NPDES Permit/Water Quality Standards (arsenic)
Wisconsin CAFO vegetative treatment areas	CWA NPDES

<sup>2</sup> Any other businesses, including farms, in which the Pagels have a financial interest are covered by this recusal.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Alexandra Dapolito Dunn *ADD* 2/8/19.  
Assistant Administrator for Chemical Safety and Pollution Prevention

TO: Andrew R. Wheeler  
Acting Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations. This recusal statement supersedes my previous July 25, 2018 recusal statement for my prior position as the Regional Administrator for Region 1.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.



I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

*OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employers during the preceding two years. For purposes of this restriction, the entities that fall within the prohibition are my former employers, the Environmental Council of States (ECOS) and the Environmental Research Institute of the States (ERIS), as well as the American University Washington College of Law, and the two entities for which I served in a fiduciary role (the Environmental Law Institute and the American College of Environmental Lawyers).

I understand that I cannot participate in any particular matter involving specific parties in which any of the entities listed below is a party or represents a party. My recusal lasts for two years from the date that I joined federal service. Based upon advice from OGC/Ethics, I understand that the Executive Order prohibits my attendance at ECOS meetings during this recusal period.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective.<sup>1</sup>

NAME OF ENTITY	DATE WHEN RECUSAL ENDS
Environmental Council of the States (ECOS)	January 7, 2020
Environmental Research Institute of the States	January 7, 2020
Environmental Law Institute, Board of Directors	January 7, 2020
American College of Environmental Lawyers, Board of Regents	January 7, 2020
American University Washington College of Law	January 7, 2020

<sup>1</sup> I understand that such meetings "do not have to be open to every corner, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, then I could attend such a meeting even if one of the stakeholders is a former employer or former client." See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

*ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

*SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Charlotte Bertrand, Deputy Assistant Administrator, to assist in screening EPA matters directed to my attention that involve those entities. To help ensure that I do not inadvertently participate in matters from which I am recused, I am directing Ms. Bertrand to seek the assistance of OGC/Ethics if she is ever uncertain whether or not I may participate in a matter. All inquiries and comments involving the entities on my recusal list should be directed to Ms. Bertrand without my knowledge or involvement until after my recusal period ends.

If Ms. Bertrand determines, with input from OGC/Ethics as appropriate, that a particular matter will directly involve any of the entities on my "specific party" recusal list, she will refer it for action or assignment to another, without my knowledge or involvement. I will provide a copy of this memorandum to my principal subordinates with a copy to OGC/Ethics.

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff  
Nancy Beck, Principal Deputy Assistant Administrator  
Charlotte Bertrand, Deputy Assistant Administrator  
Erik Baptist, Deputy Assistant Administrator  
David Cozad, Acting Designated Agency Ethics Official  
Justina Fugh, Director, Ethics Law Office





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
Washington, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

**MAR 19 2019**

**MEMORANDUM**

**SUBJECT:** Impartiality Determination to Participate in Certain Matters Involving the State of Wisconsin

**FROM:** Justina Fugh *Justina Fugh*  
Alternate Designated Agency Ethics Official

**TO:** Jessica Kramer  
Policy Counsel to the Assistant Administrator, Office of Water

As Policy Counsel to the Assistant Administrator in the Office of Water of the United States Environmental Protection Agency (EPA), you seek permission to participate in specific party matters involving the State of Wisconsin. Within the last year, prior to being selected for this position, you served as an Assistant Attorney General in the Environmental Protection Unit of the Wisconsin Department of Justice.

Under President Trump's Ethics Pledge, political appointees are prohibited from participating in specific party matters in which their former employer or former client is a party. However, state government is excluded under the definition of "former employer."<sup>1</sup> Therefore the Ethics Pledge does not apply to your State of Wisconsin employment. But since federal ethics rules do not contain a similar exclusion for state government, those rules do apply to your employment with the State of Wisconsin.

What remains is an impartiality concern under the federal ethics rules set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Upon assuming the position of Policy Counsel, you have a "covered relationship" with the State of Wisconsin pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). For one year from the date you resigned from the Wisconsin Department of Justice, absent an impartiality determination from me, you cannot participate in

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<sup>1</sup> See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/17) and "Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/10); and "Signing the Ethics Pledge," DO-090-005 (2/10/09).



any specific party matter in which the State of Wisconsin is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a).

Federal ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee's participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d). The factors that the Agency takes into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

In reviewing these factors, I have concluded that the interest of the United States Government in your participation outweighs any concerns about your impartiality, and I am authorizing you to participate as Policy Counsel in particular matters that involve the State of Wisconsin with the following limitation: you must recuse yourself from participation in specific party matters in which you participated personally and substantially while employed with the Wisconsin Department of Justice. In making this determination, I have taken the following factors into consideration:

Nature of the relationship involved – Since August 2017, you have served as an Assistant Attorney General in the Environmental Protection Unit of the Wisconsin Department of Justice. In this role, you represented the Wisconsin Department of Natural Resources (DNR) in various environmental legal matters; prosecuted, defended and negotiated resolution of cases referred to the Attorney General by DNR; and provided legal consultation and/or advice to the Attorney General, agency clients, and DNR. Sensitivities regarding your impartiality will necessarily revolve around the issues in which you participated personally and substantially for the Wisconsin Department of Justice. States share responsibility with EPA in protecting human health and the environment. With respect to many of our statutes, EPA has directly delegated states with regulatory and enforcement authority. In fact, EPA, through its regions, works closely and directly with state governmental entities on a continuing and frequent basis.

Effect of the matter upon your financial interest – I understand that you have a defined contribution plan with the State of Wisconsin but are not vested in its defined benefit plan. As such, you do not have a financial conflict of interest pursuant to 18 U.S.C. § 208.

Nature and importance of the employee's role – The Office of Water frequently works with state and local governments to provide guidance, specify scientific methods and data collection requirements, perform oversight and facilitate communication. As Policy Counsel to the Assistant Administrator in the Office of Water, you are expected to communicate freely with states, including Wisconsin. In this role, you also serve as a key advisor to the Assistant Administrator in certain key aspects under his purview.

Sensitivity of the matter – We anticipate that there will be specific party matters in which you did not participate personally and substantially for the Wisconsin Department of Justice that will rise to your level of attention, merit your participation and raise nationally significant issues.

Difficulty of reassigning the matter to another employee – Your participation as Policy Counsel in such matters will be of importance to the Assistant Administrator, and therefore in the Agency's interests. In these situations, it may not be appropriate to reassign the matter to another employee.

Under this limited authorization, you are authorized to participate in new or future specific party matters that involve the State of Wisconsin, but not on the very same specific party matters on which you worked on personally and substantially while employed by the Wisconsin Department of Justice. With respect to those particular matters involving Wisconsin as a specific party and in which you previously participated personally and substantially, you have agreed not to participate at all for the duration of your EPA tenure. If the Agency determines that we have a compelling reason for your participation as an EPA official on any of those same specific party matters that you participated in personally and substantially, then you or your Assistant Administrator may ask OGC/Ethics to reconsider the factors on a case-by-case basis and consistent with your applicable bar rules. Unless and until you receive written authorization, you must continue to recuse yourself from those matters in which you previously participated.

While I have issued you this determination to interact with the State of Wisconsin with the limitation described above, please note that you may wish to make adjustments to your duties to not participate in a particular matter that involves Wisconsin. Nothing in this impartiality determination precludes you from making additional adjustments to your duties, such as voluntarily recusing from other matters, although you are advised to confer with OGC/Ethics should such a circumstance arise. You are also cognizant of your attorney bar rules that prohibit you from participating in any matter that is the same or substantially related to the same specific party matter that you previously participated in personally and substantially, unless your bar provides for and you first obtain informed consent and notify OGC/Ethics.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Shannon Griffo at [griffo.shannon@epa.gov](mailto:griffo.shannon@epa.gov) or (202) 564-7061.

cc: David Ross, Assistant Administrator  
Dennis Lee Forsgren, Jr., Deputy Assistant Administrator  
Anna Wildeman, Principal Deputy Assistant Administrator  
Benita Best-Wong, Principal Deputy Assistant Administrator





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

March 20, 2019

**MEMORANDUM**

THE ADMINISTRATOR

SUBJECT: Updated Recusal Statement

FROM: Andrew R. Wheeler  
Administrator

A handwritten signature in dark ink, appearing to read "Andrew R. Wheeler", is written over the printed name and title.

TO: Assistant Administrators  
General Counsel  
Inspector General  
Regional Administrators

As indicated in my prior recusal statement signed on May 24, 2018, I agreed to update my recusal statement if there were any changes to my EPA duties. On February 28, 2019, I became Administrator and have continued to consult with the Office of General Counsel/Ethics (OGC/Ethics) about my ethics obligations. This memorandum reiterates my existing and ongoing ethics obligations as described in my May 24, 2018 recusal statement, clarifies some of those obligations, and adds a new voluntary recusal for matters related to the Pebble Mine.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

*OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or consultative services during the



past two years is a party or represents a party. I have been advised by OGC/Ethics that the term “former client” is defined as any person for whom I have personally provided services to between April 20, 2016 and April 20, 2018, which is the two-year period prior to the date of my appointment.<sup>1</sup> I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls.<sup>2</sup> This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,<sup>3</sup> as well as the specific issues areas from which I am recused:

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<sup>1</sup> See Exec. Order 13770, Section 2(i) and the Office of Government Ethics (OGE) Legal Advisory DO-09-011 (March 26, 2009), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (March 20, 2017).

<sup>2</sup> I am advised by OGC/Ethics that Section 1, paragraph 7 of the Executive Order applies to both “particular matters involving specific parties and “particular matters of general applicability,” but not the broader term, “matters” (e.g., the Clean Power Plan). See OGE Legal Advisory LA-17-03 (March 20, 2017) which defines “specific issue area” to mean a “particular matter of general applicability.”

<sup>3</sup> For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

<b>RECUSAL LIST PURSUANT TO EXECUTIVE ORDER 13770</b> In effect until April 20, 2020 <sup>4</sup>	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES: Energy Star Section 202(c) of the Federal Power Act	
ADDITIONAL VOLUNTARY RECUSAL: Matters related to the Pebble Mine near Bristol Bay, Alaska <sup>5</sup>	

### *SUPERFUND SITES*

To avoid any concerns about my ethical obligations, I am affirming that I will not participate in matters related to any Superfund sites at which my former clients are a potentially responsible party. Consistent with my obligations under the federal ethics regulations and Executive Order 13770, I will not participate in matters for those sites or any other at which my former client is involved until after April 20, 2020.

### *PEBBLE MINE*

I am aware that my former employer, Faegre Baker Daniels LLP, provided services to a client regarding the Pebble Mine near Bristol Bay, Alaska. Though I did not personally provide any such services to that client, and have been advised by OGC/Ethics that their client is not considered a “former client” of mine for purposes of Executive Order 13770 and the Ethics Pledge, I am voluntarily recusing myself from participation in any matters related to the Pebble Mine for the duration of my EPA tenure.

<sup>4</sup> Due to a typographical error in the May 24, 2018 recusal statement, this date has been changed to accurately reflect two years from the date that I was sworn into federal service.

<sup>5</sup> Although not necessarily required, I am recusing myself from matters related to the Pebble Mine, including any associated litigation, settlement agreement, and permitting, to avoid the appearance of any ethical concerns in the role of Administrator.



VOLUNTARY RECUSAL	
SUBJECT MATTER:	DESCRIPTION:
Matters related to the Pebble Mine near Bristol Bay, Alaska	Includes any associated litigation, settlement agreement, and permitting

#### *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the **National Energy Resources Organization (NERO)**, I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

RECUSAL LIST FEDERAL ETHICS OBLIGATIONS	
NAME OF ENTITY:	DATE WHEN RECUSAL ENDS:
National Energy Resources Organization (NERO)	One year after my resignation but no later than April 20, 2019

#### *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

#### *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Deputy Chief of Staff, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to David Cozad, Acting Designated Agency Ethics Official, and Justina Fugh, Director, Ethics Office.

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff  
Michael Molina, Deputy Chief of Staff  
David Cozad, Acting Designated Agency Ethics Official  
Justina Fugh, Director, Ethics Office





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 28 2019

Office of  
International and  
Tribal Affairs

**MEMORANDUM**

SUBJECT: Updated Recusal Statement

FROM: William C. McIntosh  
Assistant Administrator

A handwritten signature in black ink, appearing to read "W. C. McIntosh", is written over the printed name of the sender.

TO: Andrew R. Wheeler  
Acting Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as any bar obligations. This memorandum reiterates my existing and ongoing ethics obligations as described in my July 31, 2018 recusal statement.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In September 2017, I retired from Ford Motor Company. Pursuant to the company's executive compensation plan for retirees, portions of my unvested restricted stock units will vest in March 2019, and March 2020. Because I will continue to hold stock and restricted stock units in Ford Motor Company, I understand that I am recused from participating personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Ford Motor Company. Additionally, I will continue to participate in Ford Motor

Company's vehicle lease program pursuant to my executive compensation plan. Therefore, I understand that I am also recused from participating personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Ford Motor Company to provide this contractual benefit to me.

In retaining my position as trustee of my mother's trust and executor of my mother's estate, I will not receive any fees for the services that I provide as trustee or executor during my tenure at the EPA. I understand that I am recused from participating personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of my mother's trust or estate.

#### *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, Ford Motor Company, is a party or represents a party. I understand that my recusal lasts until July 8, 2020, which is two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interest rather than one shared perspective.<sup>1</sup>

#### *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to Ford Motor Company, I will instruct Jane Nishida, Principal Deputy Assistant Administrator, to assist in screening EPA matters directed to my attention that involve my former employer. All inquiries and comments involving Ford Motor Company should be directed to Ms. Nishida without my knowledge or involvement until after my recusal period ends.

If Ms. Nishida determines that a particular matter will directly involve Ford Motor Company, then she will refer it for action or assignment to another, without my knowledge or involvement. In the event that she is unsure whether an issue is a particular matter from which I am recused, then she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to David Cozad, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

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<sup>1</sup> I understand that such meetings "do not have to be open to every corner, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client." See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).



*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff  
Jane Nishida, Principal Deputy Assistant Administrator  
David Cozad, Acting Designated Agency Ethics Official  
Justina Fugh, Director, Ethics Law Office